

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 17389
[Redacted]	)	
	)	DECISION
Petitioner.	)	
_____	)	

[Redacted](petitioner) protest the Notice of Deficiency Determination issued by the auditor for the Idaho State Tax Commission (Commission) dated March 28, 2003, asserting additional liability for Idaho income tax and interest in the total amounts of \$448 and \$464 for 1999 and 2000, respectively.

The petitioner purchased a business. The only issue is whether \$500,000 of the purchase price should be attributed to the purchase of land or to the purchase of goodwill. The petitioner characterized this amount as the purchase of goodwill. The auditor determined that the amount should be attributable to the purchase of land. The cost of goodwill is amortizable; the purchase price of land is not. This difference produced the amounts in the notice of deficiency referred to above.

The auditor and the petitioner agreed that the matter should be governed by Internal Revenue Code § 1060. That section stated, in pertinent part:

Special allocation rules for certain asset acquisitions.

(a) General rule. In the case of any applicable asset acquisition, for purposes of determining both-

(1) the transferee's basis in such assets, and

(2) the gain or loss of the transferor with respect to such acquisition, the consideration received for such assets shall be allocated among such assets acquired in such acquisition in the same manner as amounts are allocated to assets under section 338(b)(5). If in connection with an applicable asset acquisition, the transferee and transferor agree in writing as to the allocation of

any consideration, or as to the fair market value of any of the assets, such agreement shall be binding on both the transferee and transferor unless the Secretary determines that such allocation (or fair market value) is not appropriate.

The transaction from which this matter arose was entered into through a written agreement. It provided that the allocation of the purchase prices should be as follows:

<u>ASSET</u>	<u>AMOUNT</u>
[Redacted]	\$ 600,000
[Redacted]	400,000
[Redacted]	400,000
[Redacted]	1,000,000
[Redacted]	<u>1,000,000</u>
Total	\$3,900,000

The above amounts total \$3,400,000, not \$3,900,000. This dispute concerns the attribution of the other \$500,000.

The seller and the petitioner (purchaser) litigated the matter asking the court to determine the nature of the agreement. The court stated, in part:

1. The parties to the Contract did agree for tax purposes they would allocate the purchase price for the Acquired Assets and Goodwill as follows:

[Redacted]	\$ 600,000.00
[Redacted]	400,000.00
[Redacted]	400,000.00
[Redacted]	1,500,000.00
[Redacted]	<u>1,000,000.00</u>
Total	\$3,900,000.00

This allocation is consistent with the treatment afforded by the auditor. Therefore, the auditor's position must be affirmed.

WHEREFORE, the Notice of Deficiency Determination dated March 28, 2003, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following tax and interest (calculated to April 15, 2005):

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
1999	\$364	\$ 122	\$ 486
2000	\$405	\$ 103	<u>\$ 508</u>
TOTAL DUE			<u>\$ 994</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2005.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

#### CERTIFICATE OF SERVICE

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2005, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt

\_\_\_\_\_